

letter with the Court acknowledging his right to file objections, but making no arguments responding to the legal conclusions of the R&R. (Dkt. No. 17).

Legal Standard

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a de novo determination of those portions of the R&R to which specific objection is made. Additionally, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). This Court may also “receive further evidence or recommit the matter to the magistrate judge with instructions.” *Id.*

Discussion

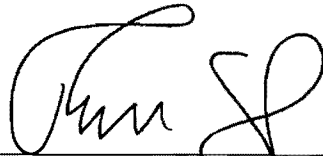
After review of the record and the R&R, the Court finds that the Magistrate Judge applied sound legal principles to the facts of this case and therefore agrees with and adopts the R&R as the order of the Court. The Court agrees with the Magistrate Judge that under 8 U.S.C. §§ 1252(a)(5) and (b)(9), this Court lacks jurisdiction to hear this case. Furthermore, this action fails to state a claim because “the detainer [is] nothing more than a request that [Greenville County] authorities notify ICE prior to [Plaintiff’s] release” and does not affect Plaintiff’s status as a pre-trial detainee. *Nasious v. Two Unknown B.I.C.E. Agents*, 366 Fed. App’x 894, 896 (10th Cir. 2010) (affirming dismissal of *Bivens* claim related to ICE detainer). Finally, Plaintiff has filed no objections that question the correctness of the Magistrate Judge’s conclusions.¹

¹ “If the individual has a complaint regarding the detainer . . . , he or she should contact the ICE Joint Intake Center at 1-877-2INTAKE (877-246-8253).” <http://www.ice.gov/news/library/factsheets/detainer-faqs.htm>.

Conclusion

For the reasons set forth above, the Court agrees with and adopts the R&R as the order of the Court. (Dkt. No. 15). Accordingly, this action is dismissed without prejudice and without service of process.

AND IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'R. Gergel', written over a horizontal line.

Richard Mark Gergel
United States District Court Judge

January 7, 2014
Charleston, South Carolina